

APPROVED: Meeting No. 01-93

ATTEST:

Sharon A. Gran

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 40-92

December 14, 1992

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on December 14, 1992, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran, City Attorney Paul Glasgow and Assistant City Attorney Sondra Block.

Mayor Duncan introduced his cousin from Sao Paulo, Brazil, Nathalie Cortes, who is visiting the United States for the first time.

Re: City Manager's Report

1. Another promotional process in the City Police Department has been concluded, culminating this evening at 7:00 p.m. with the promotion of Sgt. Charles Holzberger to the position of lieutenant.

2. Within the past week to ten days, members of the Council returned from the National League of Cities annual conference. Councilmember Marrinan made a presentation on the beneficial effects of regionalism, based upon his experience with the Metropolitan Washington Council of Governments, with particular reference to cooperative purchasing.

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3. A report on efforts to respond to the concerns of Scott Drive residents regarding speed and volume of traffic was issued in late October. Three recommendations were provided: install rumble strips; have these strips in place for a one-year trial period; and work closely with Montgomery County Government on diversionary traffic controls. There has been positive feedback regarding the earlier report, and staff is prepared to proceed with the recommendations. A letter has already been sent to County Executive Neal Potter requesting that the County work cooperatively with the City in connection with the traffic which will be generated by the new development, Willows of Potomac.

The Mayor and Council will be holding a worksession with the Traffic and Transportation Commission on this issue tomorrow evening at 7:00 p.m. at City Hall.

Re: Presentation of awards to individuals/organizations for their assistance in decorating the Rockville Civic Center Mansion for the holidays

The Mayor and Council presented certificates of recognition to the following individuals/organizations for their efforts in decorating the Civic Center Mansion for the holidays:

St. Mary's School Parents	Mansion Docents
Liz VonKaenel/Bob Cowles	Women's Club of Rockville
Rockville Little Theatre	Jr. Women's Club of Rockville
Recreation and Parks Staff	Rockville Art League
Temple Beth Ami	Rockville Sister City Corp.
Polish Club of Rockville	
Vasyl, Thaiz and Blanca Linde of Venezuela	
Peerless Rockville/Montgomery County Historical Society	
Chinese American Parents and Students Association	
St. Andrew's Ukrainian Orthodox Church	

Mayor Duncan thanked all participants for their outstanding and imaginative work. The

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mansion decorations have always been outstanding, and they continue to improve each year.

Re: Citizens Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Rev. Mansfield Kaseman, 704 Carter Road, Executive Director of Community Ministries of Rockville, introduced Mingchen Keller as the new Director of Elderly Ministries. Ms. Keller provided the Mayor and Council with some statistics regarding the homebound clients and indicated she is glad to be able to serve them.

2. Bill Strickler, Treasurer of Peerless Rockville Historic Preservation Ltd., distributed copies of Peerless' 1993 calendar to the Mayor and Council. He also invited everyone to join Peerless Rockville for their annual New Year's Day brunch which will be held from 11:00 a.m. to 2:00 p.m. at the Civic Center Mansion.

There being no other citizens wishing to be heard, the Mayor closed the Citizens Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Karen Lechter was reappointed to the Board of Appeals for a one-year term as Alternate.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, George Northway was appointed to a one-year term as the Chairperson of the Cultural Arts Commission.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Michael Patterson was reappointed to a three-year term on the Historic District Commission.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed,

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Donna Hill was appointed to a three-year term on the Rockville Sister City Corporation.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Estelle Berberian and Benton Hanan were reappointed to three-year terms on the Senior Citizens Commission.

Re: Approval of Minutes

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the minutes of Meeting No. 39-92 (November 23, 1992) were approved, as written.

Re: Consent Agenda

Councilmember Krasnow requested the removal of Item B from the Consent Agenda.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Item was approved:

- A. Award of Bid No. 32-93 for purchase of two-20 cubic yard refuse compactor bodies and truck chassis; the truck chassis to be purchased from Chesapeake Ford Truck Sales, Inc., Baltimore, Maryland, for the low bid of \$68,724, and the compactor bodies to be purchased from Ingold's Hico, Inc., Bel Air, Maryland, for the low bid of \$34,700.

This bid will provide two replacement vehicles for the Refuse Division for a total of \$103,424. Sufficient funds have been budgeted for this award.

Re: Acceptance of Text Amendment Application T-132-92, Joseph A. Lynott, Jr., attorney for Marlo

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Furniture Company,
Applicant.

This application requests amendment to the parking quantity requirements of the Zoning Ordinance so as to add a new method of calculating the parking requirements for a furniture store. If accepted by the Mayor and Council, this application will be referred to the Planning Commission for recommendations.

Councilmember Krasnow expressed concern with moving forward with this text amendment prior to approval of the rezoning requested by Marlo Furniture. Staff explained that Marlo Furniture is anxious to proceed and the review process for text amendments is lengthy.

In addition to being a furniture store, Marlo is also a warehouse store which is the reason for the requested text amendment. Councilmember Krasnow does not feel that the warehouse portion of the business is a proper use of the site (carnival grounds) and, therefore, does not recommend that this application be submitted to the Planning Commission for their review.

Councilmember Marrinan also has some concerns about the warehouse concept but is willing to give Marlo the benefit of the doubt. Their plan does seem excessive with respect to potential adverse impact on the residential community and the Richard Montgomery High School area. It may be worthwhile to get additional input from the Planning Commission on this point, and Councilmember Marrinan wondered whether they could address this issue between now and the next meeting of the Mayor and Council.

The importance of timing at this stage was raised by Councilmember Coyle. Staff

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responded that a decision as to the action to be taken on the rezoning of the property would be made tonight and would clarify whether the retail operation could proceed.

In response to Councilmember Robbins, staff outlined the text amendment process.

The fact that Marlo Furniture needs a parking reduction in order to make this use fit on the site was emphasized by Councilmember Krasnow, and she believes the warehouse store is too large for the site. While the text amendment could apply to other furniture stores, it may only be applicable to Marlo because of their warehouse component.

Mayor Duncan commented that the requested amendment should be approached as a zoning change across the City rather than focusing on one particular tenant and one site. It should be sent to the Planning Commission to initiate the review process so as to afford the applicant an opportunity to be heard. This is the City's standard process for text amendments.

It was agreed that further discussion of this item would be deferred until later in the agenda, following discussion and instructions to staff on Map Amendment Application M-59-92.

Re: Approval of Waiver No. 3-93 of on-site stormwater management for lots 1 and 2, Simmons Addition to Rockville, located on North Van Buren Street.

Developers, Seldon and Mary Higgins, propose to subdivide the lots and construct a single-family house on the south lot. The north lot is occupied by a garage which is to remain.

It was pointed out by Councilmember Krasnow that the runoff from this site would discharge into both an existing facility and a yet to be constructed facility. She requested that this

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situation be noted for future stormwater management waivers.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Waiver No. 3-93 for on-site stormwater management for Lots 1 and 2, Simmons Addition to Rockville, was approved along with acceptance of a contribution of \$4,800 to the SWM fund.

Re: Adoption of Resolution to designate the Civic Center Park and grounds as an Urban Wildlife Sanctuary.

The Department of Recreation and Parks would be given the responsibility for maintaining and preserving the area and making enhancements which would promote environmental and wildlife education to the residents of Rockville.

Resolution No. 14-92

Staff noted that approval of this resolution will result in an application to the National Institute for Urban Wildlife to designate 35 acres of manicured grounds and adjacent 118 acres of open space as an urban wildlife sanctuary. This designation is an environmentally friendly action and demonstrates the City's overall proactive stance on environmental issues. It would not place any specific additional requirements on the City.

Councilmember Robbins was advised that there is an application fee of \$50 involved, and that the National Institute for Urban Wildlife will assist in promoting this area as an appropriate habitat for wildlife. There are currently plans for additional improvements on the site such as a nature center and trail improvements.

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Mayor Duncan requested that staff look at the possibility of also designating the site along the stream in Woodley Gardens as an urban wildlife sanctuary.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Resolution No. 14-92, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to designate the 35 acres of manicured parkland and the 118 acres of forested open space surrounding the Civic Center Mansion as an urban wildlife sanctuary.

Re: Adoption of the Economic Development Plan presented by the Economic Development Council.

This plan outlines strategies for economic development activity in the city.

The City Manager reported that the Economic Development Plan is the culmination of a lengthy process which involved review by a number of groups and agencies. He recommended that the Mayor and Council adopt the Plan and staff would then move forward with the implementation strategies which may include a worksession.

Councilmember Coyle noted that this plan should be viewed as a starting point for where the City wants to be in the future and should be considered along with the draft master plan. It should be emphasized that this is not a specific action plan; it is more of a policy and general direction of where we want to go. He suggested that a citizen survey be considered in order to receive citizen perceptions of the business activities they would want to have. He would also like to see a connection between jobs and citizens of Rockville. Since the City has more jobs than citizens, he feels that this information should be added in the hopes that we can match available jobs with the skills of our residents.

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As to dissemination of the Plan, Councilmember Robbins was advised that it would be widely distributed as a device to market the community and to demonstrate the City's overall policy towards economic activity.

Councilmember Marrinan complimented staff and all those involved in the development of the Plan. It demonstrates a great deal of foresight and serves as a strategic plan for future action. He was impressed that it refers to possible annexation areas that the City is looking at.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Economic Development Plan was adopted.

Re: Adoption of Resolution to extend decision period - Street Closing and Abandonment Application SCA-67-92, George Malusky II, Applicant.

This resolution will extend for 90 days the period in which a decision must be rendered on the application to close and abandon a portion of an alleyway located between Woodland Road and Coleman Park Lane.

Resolution No. 15-92

The City Manager reported that this matter had been tabled earlier to allow time to see if the business being operated at one of the residences could be brought under control. Inspectors have been in regular contact with the person operating the business who has pledged full cooperation with the City to alleviate all objective behaviors.

Mayor Duncan stressed that this is a business with vehicles and deliveries; it does not

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fall within the definition of a home occupation. The applicant has advised that the shed has been moved to another location on Crabb Avenue, and the doors of the shed now face the street.

A concern for security/safety had been raised at the public hearing, and Councilmember Coyle asked if any investigation had been done about this issue.

It was agreed that a report would be prepared for inclusion on the January 11 agenda of the Mayor and Council.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Resolution No. 15-92, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to extend until March 15, 1993, the period in which a decision must be rendered on Street Closing and Abandonment Application SCA-67-92, George Malusky II, Applicant.

Re: Approval of the request of Courthouse Square Limited Partnership for an 18-month extension of payment and maturity dates for notes number one and two with respect to the Victoria Condominium development.

This extension provides for interest on the deferred installments at the rate of 7% per year.

The City Attorney advised Councilmember Marrinan that, in the context of this transaction and in view of the fact that Mr. Whalen is not drawing any funds out of this project, this request is not an unreasonable one.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the request of Courthouse Square Limited Partnership was granted to extend for 18 months the payment

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and maturity dates for notes number one and two with respect to the Victoria Condominium development, subject to appropriate amendments to the loan documents being prepared by the City Attorney to implement this extension.

Re: Adoption of Ordinance to adopt a new Chapter 23.5, Forest and Tree Preservation, of the Rockville City Code.

The Forest and Tree Preservation Ordinance and the Forest Conservation Manual will implement essential elements of Rockville's Urban Forest Conservation Program.

Ordinance No. 21-92

Councilmember Coyle inquired as to how the concerns of the Sierra Club were being accommodated, in particular the "no net loss" issue. Staff explained that some of the regulations, when applied to specific, individual properties, could result in a net loss on a particular property. The ordinance was not drafted to apply a "no net loss" policy on a property-by-property basis; it is a broader conservation and replacement policy and provides a balance over the entire community. There are a number of provisions in the regulations that go far beyond what the State of Maryland requires in their tree preservation act.

Insofar as Sierra Club's suggestion to lengthen the time for the City forester's review and action on plans, this timing is dictated by the State. While the City does not have discretion with respect to the time period, procedures have been built into the ordinance that the time does not begin to run until the application is complete.

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The City Manager has overall responsibility for administration of the ordinance, with technical responsibility vested in the City forester. There are provisions for appeal to the Board of Appeals if a dispute arises over administration of the ordinance.

Councilmember Marrinan referenced the County's forest conservation law which has provisions for waivers or variances and asked if waiver authority would be appropriate in the City.

It was noted that the City's ordinance does have flexibility built into the administrative process as to how individuals meet the obligations of the regulations.

Councilmember Krasnow referenced a letter from Bill Kominers of Linowes and Blocher and asked how the Tower Oaks development fits into the requirements of the ordinance. Staff responded that the Tower Oaks project has received detailed planning application approvals for a small portion of their development; roadways have been approved and built and one project, Marriott Corporation, received detailed application approval but has not moved forward. These projects would be grandfathered in; however, if changes are made to previously approved areas, that portion of the project would fall under the regulations. The balance of the site would be subject to the new regulations.

Councilmember Krasnow asked about tree damage caused by utility companies. Staff noted that there is a roadside tree law under the jurisdiction of the Department of Natural Resources. However, once this ordinance is approved, the City will attempt to require cable and other utility companies to follow pruning specifications of the City. If a utility company were to remove a tree under this new law, a permit would be required. If damage were done to an individual's property, the owner would have a claim for damages against the utility company.

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Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the ordinance was amended to include the two sets of amendments recommended by staff. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 21-92, the full text of which can be found in Ordinance Book No. 17 of the Mayor and Council, was adopted, as amended, to add a new Chapter 23.5, Forest and Tree Preservation, to the Rockville City Code.

Re: Adoption of Resolution to adopt the Maryland Department of Natural Resources Forest Conservation Manual with a supplement containing added and modified language to address Rockville's requirements and procedures.

The Forest Conservation Manual and Tree Preservation Ordinance will implement essential elements of Rockville's Urban Forest Conservation Program.

Resolution No. 16-92

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Resolution No. 16-92, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to adopt the Maryland Department of Natural Resources Forest Conservation Manual with a supplement containing added and modified language to address Rockville's requirements and procedures.

Re: Adoption of Resolution to establish fees for certain applications required to be

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submitted in accordance
with the Forest and Tree
Preservation Ordinance.

Resolution No. 17-92

Councilmember Coyle noted that the City's fees are substantially lower than the County's. Staff responded that the City's fees conform to those recommended by the Department of Natural Resources in their model ordinance. The law allows the City to adopt more stringent fees, if needed. At this time, however, staff could not find justification for adopting more stringent fees.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Resolution No. 17-92, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to establish fees for certain applications required to be submitted in accordance with the Forest and Tree Preservation Ordinance.

Re: Introduction of Resolution
to enlarge the corporate
boundaries of the City of
Rockville - Annexation No.
X-111-92, Mayor and
Council of Rockville,
Applicant.

This is a proposal for
annexation of a single 15.47
acre parcel located at
917/919 Montrose Road and
occupied by Saint
Elizabeth's Catholic
Church.

This is a petition filed by the City at the request of St. Elizabeth's Church. The City Manager and Director of Community Development have had personal contact with church

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representatives. The Church concurs with the City that there are three positive results from this annexation:

1. It will make the City boundary line more uniform.

2. It will round out the City's urban growth area.

3. It will provide St. Elizabeth's Church will full status as a citizen of the City and make available City services and programs, in particular recreation programs.

The ordinance was duly introduced.

Re: Adoption of Resolution to set public hearing date - Annexation No. X-111-92, Mayor and Council of Rockville, Applicant.

This resolution establishes a public hearing date for the proposed annexation of St. Elizabeth's Catholic Church property located at 917/919 Montrose Road.

Resolution No. 18-92

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Resolution No. 18-92, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to establish a public hearing date of March 15, 1993, for the proposed annexation of St. Elizabeth's Catholic Church property at 917/919 Montrose Road.

Re: Discussion and Instructions to Staff - Map Amendment Application M-59-92, Joseph A. Lynott, Jr., attorney for Marlo Furniture Company, Applicant.

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This application requests zoning reclassification of the unimproved property located at the southwest corner of Rockville Pike and Richard Montgomery Drive (carnival grounds), Rockville, Maryland, from the present O-1, Office Building, and R-60, One-Family Detached Residential, to the RPC, Rockville Pike Commercial, Zone.

Councilmember Krasnow noted that what while it is a zoning change being considered, she cannot separate this from Marlo's plans for a warehouse store. A conscious decision was made several years ago not to put this property in the RPC Zone. She feels that in looking at land use in the area, the school and the site's proximity to downtown Rockville, the property should remain in the O-1 Zone. This site is inappropriate for a warehouse furniture store, and she is not in favor of changing the zoning.

Councilmember Coyle indicated that he had wanted to see this property in the RPC Zone earlier in that it provides greater opportunity to complement the school and neighborhood. Some of the Planning Commission members felt a mistake was made earlier when it was not put in the RPC Zone. With respect to Marlo's application, if they do not meet requirements for traffic mitigation, the Planning Commission would not recommend approval. He would like to see this property in the RPC Zone.

Both the Planning Commission and staff recommend approval; however, Councilmember Marrinan expressed concern as to a potential adverse impact on the community and Richard Montgomery High School area.

Councilmember Robbins feels comfortable with RPC zoning, whether it is Marlo or

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another business which is sited on the property. RPC zoning makes a great deal of sense, and he supports it.

Mayor Duncan believes there was a mistake made earlier when this property was not placed in the RPC Zone. He supports this application for several reasons: it represents downzoning of the site; the urban design and streetscape requirements in the RPC Zone are more stringent than in any other zone in the City; office development and accompanying traffic impacts on this site would be horrendous.

Discussion followed as to the fact that the ground floor in the RPC Zone must be retail. Marlo's showroom on the first floor and storage of merchandise on the second floor represent a 50/50 breakdown; however, it is a matter of scale. Current parking requirements are based on the gross floor areas of the entire structure; thus, when they are applied to Marlo, a large structure, an excessive amount of parking is required.

Councilmember Krasnow expressed continuing concern with fitting such a large-scale project on this site. The amount of warehouse space will involve a lot of trucks and people carrying away large pieces of furniture.

Councilmember Coyle views the RPC zoning as an opportunity to improve aesthetics.

Upon motion of Councilmember Coyle, duly seconded, with Councilmember Krasnow voting no, staff was instructed to prepare the necessary documentation for approval of Map Amendment Application M-59-92, Joseph A. Lynott, Jr., attorney for Marlo Furniture Company, Applicant, in accordance with the recommendations of the Planning Commission and Planning staff.

Re: Acceptance of Text
Amendment Application T-
132-92, Joseph A. Lynott,
Jr., attorney for Marlo
Furniture Company,

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Applicant.

This application requests amendment to the parking quantity requirements of the Zoning Ordinance so as to add a new method of calculating the parking requirements for a furniture store. If accepted by the Mayor and Council, this application will be referred to the Planning Commission for recommendations.

This item had been deferred earlier in the meeting. Councilmember Coyle expressed concern with moving forward on this action until the application for rezoning is resolved.

Councilmember Krasnow noted that, in light of the preceding vote on the map amendment application, the Planning Commission may as well move forward with their review of the text amendment.

Upon motion of Councilmember Marrinan, duly seconded, with Councilmember Coyle voting no, Text Amendment Application T-132-92, Joseph A. Lynott, Jr., attorney for Marlo Furniture, Applicant, was accepted for processing and referral to the Planning Commission.

Re: FYI/Correspondence

The Public Works crews were commended in a recent letter, and Mayor Duncan requested that appreciation be expressed to these employees.

Councilmember Coyle referenced an anonymous letter of appreciation regarding the Thanksgiving holiday basket program.

The letter of support received from Americana Centre Condominium regarding the proposed new jail facility near Clarksburg was referenced by Councilmember Marrinan.

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Re: New Business

Councilmember Marrinan provided a short briefing regarding the recent National League of Cities conference. It was noted that cities are a key place for dealing with social needs, and we need to invest more in human resources. Overall, there was a feeling of excitement at the conference and a feeling that, with Bill and Hillary Clinton, the nation's cities will have friends in the White House.

Councilmember Coyle referenced a letter in the Outlook section of The Washington Post, written by Adrienne Carr of the Montgomery County Coalition for the Homeless. She indicates that volunteers in the shelters have become less tolerant and more fearful. Councilmember Coyle asked if the City could receive some feedback from Community Ministries as to the current shelter situation. It was agreed that such a briefing would be scheduled for a future Mayor and Council meeting, probably in January.

A summary of the Carnegie report recently appeared in the newspaper and pointed out that teenage youth are often home alone after school. Councilmember Krasnow commented that while Rockville does have teen-oriented programs, the City should take note of this point.

This is the week for recycling of phone books, and Councilmember Krasnow reminded everyone to put their books out for pickup.

Re: Next Meeting

The Mayor and Council will hold a worksession with the Traffic and Transportation Commission tomorrow evening, December 15, to be followed by a meeting with District 17 representatives regarding the upcoming General Assembly session. The next General Session of the Mayor and Council is scheduled for January 11, 1993, at 7:30 p.m., at which time a decision on the

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annexation of Irvington Farm will be scheduled along with a few other major issues facing the City of Rockville.

Mayor Duncan wished everyone a happy, safe and healthy holiday and new year.

Re: Executive Session

Upon motion of Councilmember Marrinan, duly seconded, with Mayor Duncan and Councilmembers Coyle, Krasnow, Marrinan and Robbins voting "aye," the Mayor and Council convened in Executive Session in the City Manager's Conference Room at 9:30 p.m., pursuant to Section 10-508(a)(4) and (7) of the State Government Article, Annotated Code of Maryland (1991 Cum. Supp.), to consider a proposal for a business to remain and expand in the city and to obtain legal advice from counsel regarding the proposal.

Re: Adjournment

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the meeting was adjourned at 10:50 p.m., to convene again in Worksession on Tuesday, December 15, at 7:00 p.m., or at the call of the Mayor.